

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION**

Loretta Diaz,)
)
Plaintiff,) Civil Action No.
)
v.) (Civil Action No. 2022-CP-17-0551)
) (Court of Common Pleas)
Waffle House, Inc. and WH Capital, LLC,)
)
Defendants.)

)

Pursuant to 28 U.S.C. § 1446, the Defendants Waffle House, Inc. and WH Capital, LLC hereby invoke the jurisdiction of the United States District Court for the District of South Carolina and state the following grounds for removal:

1. On December 5, 2022, the above-captioned action was filed in the Court of Common Pleas for Dillon County by the Plaintiff to recover monetary damages from the Defendants Waffle House, Inc. and WH Capital, LLC. The Plaintiff has asserted a negligence cause of action wherein she alleges that on January 3, 2020, she slipped and fell in the restaurant's restroom at Unit #1397 located at 709 Radford Boulevard in Dillon, South Carolina.

2. The Defendants Waffle House, Inc. and WH Capital, LLC were served with the Summons and Complaint on December 6, 2022.

3. The Defendant Waffle House, Inc. is a corporation organized and existing under the laws of the State of Georgia. Moreover, the Defendant Waffle House, Inc.'s principal place of business is located in the State of Georgia. The Defendant WH Capital, LLC is a limited liability

company organized and existing under the laws of the State of Georgia whose only member is its parent company, Waffle House, Inc. For the reasons stated above, Waffle House, Inc. is a citizen and resident of the State of Georgia.

4. Based on the allegations of the Complaint, the Plaintiff is a citizen and resident of the State of South Carolina.

5. The prayer for relief in the Complaint is unspecified. The Plaintiff has prayed for an unspecified amount of actual and punitive damages. Prior to suit being filed, the Plaintiff, through her counsel, in a letter dated August 30, 2022, made an unspecified demand of the Defendants to settle this dispute. In that same letter, the Plaintiff's counsel identified medical expenses totaling \$113,958.54. In addition, in her Complaint, the Plaintiff alleges that she "sustained injuries and damages" to include "extensive pain, mental anguish, suffering and discomfort; physical injuries and harm to her person; disability for a period of time, past and future; money spent for medical care and treatment, past, present and future; inability to carry on normal activities; permanent injuries and partial disability; emotional trauma and distress; and loss of enjoyment of life." *See, Complaint, ¶ 33.*

6. This Court has original jurisdiction of this action pursuant to 28 U.S.C. § 1332. There is complete diversity of citizenship of the named parties in the Complaint. Furthermore, based upon information learned prior to suit being filed, the amount in controversy exceeds the sum or value of \$75,000. Consequently, this action may be removed pursuant to 28 U.S.C. § 1441.

7. The Defendants submit this Notice of Removal without waiving any defenses to the claims asserted by the Plaintiff and without conceding that the Plaintiff has pled claims upon which relief can be granted.

8. This Notice is filed with this Court within thirty days of service of the Summons and Complaint.

9. The attorney of record for the Defendants signs this Notice of Removal pursuant to Rule 11, FRCP.

WHEREFORE, the Defendants Waffle House, Inc. and WH Capital, LLC pray that this Court accept this Notice of Removal which is being filed and that this Court take jurisdiction of the above-captioned action and that all further proceedings in the action in the Court of Common Pleas for Dillon County, State of South Carolina, bearing Civil Action No. 2022-CP-17-0551, be stayed.

LINDEMANN LAW FIRM, P.A.

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January 5, 2023